

DEC 15 1983

Certified mail

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

The supporting data submitted with your application states you are organized by a Deed of Dedication and By-Laws. You are a membership organization. Every person or entity who is a record owner of a fee or undivided fee interest in any lot in your subdivision which is subject by covenants of record to assessment by the Association shall be a member of the Association. Your present assessment fee is \$[REDACTED] per month from the [REDACTED] homeowners. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Properties and in particular for the improvement and maintenance of the Properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area and the Driveway and Parking Areas, and of the homes situated upon the Properties.

Your application describes your activities as the maintenance of the common ground, parking lots and service drives, purchase of liability and hazard insurance, the promotion of the recreation, health, safety and welfare of the residents of the sub-division.

Section 501(c)(3) of the Internal Revenue Code provides for exemption from Federal income tax for organizations which are organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals; no part of the net earnings of which inures to the benefit of any private shareholder or individual. A shareholder refers to anyone having a personal and private interest in the activities of the organization.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
	[REDACTED]	[REDACTED]					
Surname							
Date	12-10-83	12/11/83					

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations provides that the term "charitable" is used in section 501(c)(3) in its generally accepted legal sense. It includes purposes and activities directed toward relief of the poor and distressed; advancement of religion, education or science, lessening the burdens of government; and combating community deterioration and juvenile delinquency.

In order to qualify under section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more purposes specified in that section. If the organization fails to meet either the organizational or the operational test, it is not exempt.

An organization is not organized or operated exclusively for one or more of the purposes specified in section 501(c)(3) unless it serves a public rather than a private interest.

Your stated purposes are not within the purview of section 501(c)(3) of the Internal Revenue Code.

Your organization is organized to benefit a limited number of specific individuals. You operate to serve the private interests of your members. There is not charitable purpose being accomplished.

Because you are neither organized nor operated exclusively for the purposes specified in section 501(c)(3) of the Internal Revenue Code, we hold that you do not qualify for exemption under that section.

Based on the information submitted, exempt status will not be recognized under any related paragraph of Internal Revenue Code section 501(c).

In accordance with this determination you are required to file Federal income tax returns. Your attention is called to Section 528 of the Internal Revenue Code which provides certain procedures by which qualifying Homeowners Associations may elect to be treated as a tax exempt organization. This section of the Code was included in the Tax Reform Act of 1976. If you determine that you qualify under Section 528, you must file Form 1120H. If you determine that you do not qualify under Section 528, you must file corporate tax return Form 1120.

[REDACTED]

If you do not accept our finding, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office or, if you request, at any mutually convenient District office. If we do not hear from you within 30 days of the date of this letter, this determination will become final and a copy of this letter will be sent to the appropriate state officials in accordance with Section 6104(c) of the Internal Revenue Code.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

[REDACTED]
District Director